

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
WISCONSIN

GREEN BAY DIVISION

**Hilario Tenopala Hernandez &
Armando Perez Zarate,**

Plaintiffs,

Case No. 1:19-cv-1093

v.

Lauer Farms Inc. & Michael Lauer

Defendants.

**JOINT MOTION FOR APPROVAL OF SETTLEMENT AND FLSA FAIRNESS
DETERMINATION**

Plaintiffs and Defendants, through their undersigned counsel, hereby move this Court for a fairness determination as to settlement of Plaintiffs' Fair Labor Standards Act ("FLSA") claims, and for an Order granting final approval of the Agreement and Release in this action. The plaintiffs in this case are two migrant farmworkers who brought claims under the Fair Labor Standards Act, 29 U.S.C. §§ 201-219 ("FLSA"), Wisconsin's Migrant Labor Act, Wis. Stat. § 103.90 *et. seq.*, breach of contract, Wisconsin's wage payment and minimum wage laws under Wis. Stat. § 109 *et. seq.*, and Wis. Stat. § 104.02. The Settlement will resolve all claims brought against the Defendants in this action pursuant to the proposed Settlement and Release Agreement attached as Exhibit A.

For a settlement of Fair Labor Standards Act claims to be enforceable, the settlement must be approved by the Department of Labor or a court. *See, eg., Walton v. United Consumers Club,*

Inc., 786 F.2d 303, 306 (7th Cir. 1986); *Lynn's Food Stores, Inc. v. U.S. United States*, 679 F.2d 1350, 1353 (11th Cir. 1982).

In considering the fairness of a settlement under the FLSA, a court is required to “consider whether the agreement reflects a reasonable compromise of disputed issues rather than a mere waiver of statutory rights brought about by an employer's overreaching.” *Burkholder v. City of Ft. Wayne*, 750 F. Supp. 2d 990, 995 (N.D. Ind. 2010) (internal quotation and citations omitted). Here, the Settlement compensates Plaintiffs for 100% of the minimum wages claimed under the FLSA and 100% of the damages owed for the Defendants’ alleged minimum wage violations. (Settlement Agreement, Exhibit A, page 3).

Further, the parties are engaged in a bona fide dispute. Defendants dispute that there are unpaid wages owed to the Plaintiffs under the Fair Labor Standard Act; but, parties have agreed to settle before conducting discovery. A settlement should normally be approved when “serious questions of law and fact exist such that the value of an immediate recovery outweighs the mere possibility of further relief after protracted and expensive litigation.” *Burkholder* 750 F. Supp. 2d at 995 (internal quotes and citations omitted).

Accordingly, the parties request that the Court approve the fairness of this settlement and enter the attached proposed Order approving the Agreement.

Respectfully submitted this 24 of September 2019

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